

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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RAUL ORTEGA, *individually and on behalf of
others similarly situated,*

Case No.: 20-cv-07140

Plaintiff,

**DECLARATION OF
RAUL ORTEGA**

-against-

TOKYO BAY ENTERPRISE NY, INC.
(D/B/A TOKYO BAY) and BILLY RIU,

Defendants.

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I, Raul Ortega, declare under penalty of perjury, pursuant to 28 U.S.C. §1746, that:

1. I am a Plaintiff in the above-captioned action, and I have personal knowledge of the matters stated below.

2. I reside in Bronx County, New York.

3. It is to my understanding that I was employed by Tokyo Bay Enterprise NY, Inc.
(d/b/a Tokyo Bay) and Billy Riu.

4. Defendants own, operate, or control a Japanese Restaurant, located at 183 Duane Street, New York, NY 10013 under the name “Tokyo Bay”.

5. It is my understanding that Defendant Billy Riu possesses operational control over by Tokyo Bay Enterprise NY, Inc. (d/b/a Tokyo Bay), possesses ownership interests in by Tokyo Bay Enterprise NY, Inc. (d/b/a Tokyo Bay), and controls significant functions of by Tokyo Bay Enterprise NY, Inc. (d/b/a Tokyo Bay).

6. Defendant Billy Riu had the power to hire and fire me, control my terms and conditions of my employment, and determine the rate and method of my compensation.

7. To my knowledge Defendant Billy Riu is not in the military service of the United States.

8. I believe Defendant Billy Riu is not in the military service of the United States because I have seen him regularly at Tokyo Bay, where I worked.

9. I worked for the Defendants at Tokyo Bay from approximately October 15, 2016 until on or about March 13, 2020.

8. Throughout my employment with the Defendants, I was employed as a delivery worker.

9. My duties required neither discretion nor independent judgment.

10. My work responsibilities involved handling goods that traveled in interstate commerce every day such as cleaning supplies and other supplies produced outside the State of New York.

11. From approximately October 2016 until on or about September 15, 2019, two weeks per month, I worked from approximately 5:00 p.m. until on or about 10:30 p.m., Mondays Wednesdays, Fridays, and Saturdays (typically 22 hours per week).

12. From approximately September 16, 2019 until on or about March 13, 2020, I worked from approximately 5:00 p.m. until on or about 10:30 p.m., Mondays, Wednesdays and Fridays (typically 16.5 hours per week).

13. Throughout my employment, I was paid my wages in cash.

14. From approximately October 15, 2016 until on or about October 15, 2017, Defendants paid me a fixed salary of \$20 per day.

15. From approximately October 16, 2017 until on or about October 15, 2018, Defendants paid me a fixed salary of \$30 per day.

16. From approximately October 16, 2018 until on or about October 15, 2019, Defendants paid me a fixed salary of \$35 per day.

17. From approximately October 16, 2019 until on or about March 13, 2020, Defendants paid me a fixed salary of \$40 per day.

18. Defendants never granted me any breaks or meal periods of any kind.

19. Defendants did not account for my tips in any daily or weekly accounting of my wages.

20. I was never required to track my time by using a clock-in system, time sheet, punch cards, or any other method.

21. I was required by Defendants to purchase “tools of the trade” with my own funds, including two sets of lights, a helmet, a vest, and a bicycle.

22. I was not given an accurate statement of wages, with each payment of wages.

23. I was not given information regarding minimum wage and overtime requirements under New York State or Federal laws.

24. I was never provided with any notice in English and in Spanish, my primary language, of my rate of pay.

25. I remain unpaid for compensation and wages.


26. I respectfully submit this declaration in support of my motion for default judgment.

27. This document has been translated to me in my native language of Spanish, and I fully comprehend the contents. ("Este documento ha sido traducido y yo comprendo todos los términos.").

28. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed: New York, NY

12-22, 2021


Raul Ortega